IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 3RD APRIL 2007 / 13TH CHAITHRA 1930

Crl.MC.No. 1094 of 2007()

C.C.NO.284/2006 OF THE J.F.C.M. COURT, TIRUR

PETITIONERS:

VAKKAYIL SAJITH SAHEER MOIDEEN,
S/O.MOITHEEN HAJI,
27 YEARS, JAMILA NILAYAM,
MURIVAZHIKKAL, P.O.PARAVANNA.

BY ADV. SRI.K.P.MUJEEB

RESPONDENT:
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1. RAHEENA.K., 22 YEARS,
D/O.K.THAJUDEEN, KIZHAKKAM KUNNATH HOUSE,
PACHATTIRI P.O., PACHATTIRI AMSOM DESOM,
MALAPPURAM DISTRICT.

2. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 03/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.1094 of 2007

Dated this the 3rd day of April 2007

O R D E R

The petitioner faces indictment in a prosecution interalia under Section 498A I.P.C. There is only one accused in the case. The petitioner is the husband of the first respondent. A private complaint was filed by the first respondent. The same was referred to the police. The police, after investigation, has filed the final report. Cognizance was taken. The matter is pending before the learned Magistrate. The parties have now settled the dispute. The learned counsel for the petitioner asserts and the learned counsel for the first respondent concedes that the disputes have been settled harmoniously. Divorce has been effected. Parties are residing separately after settling all the disputes. It is, in these circumstances, prayed that powers under Section 482 Cr.P.C may be invoked to bring to premature termination the prosecution which is unnecessarily continuing as an irritant in the harmonious relationship between the parties.

2. The parties have filed a joint application for composition. The learned counsel for the first respondent vouches for the signature of the first respondent in the application for composition. I am satisfied, in the light of the submissions made at the Bar from the averments in the petition in the Criminal Miscellaneous Case and from

the application for composition that the parties have settled their disputes amicably. If legally permissible I am satisfied that the composition can be accepted.

3. The offence under Section 498A I.P.C is not legally compoundable. The counsel relies on the decision in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. The said decision is authority for the proposition that at times and in an exceptional case, the interests of justice may transcend the interests of mere law and in such circumstances, the provisions of Section 320 Cr.P.C cannot be reckoned as a fetter on the sweeping and extraordinary inherent powers of the court under Section 482 Cr.P.C.

4. I am satisfied, in the facts and circumstances of this case that this is an eminently fit case where the powers under Section 482 Cr.P.C, as explained in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386] deserve to be invoked.

5. In the result, this Criminal Miscellaneous Case is allowed. C.C.No. 284/06 pending before the Judicial First Class Magistrate Court, Tirur is hereby quashed.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006